

BEFORE THE FEDERAL ELECTION COMMISSION :

In the Matter of)

MUR 5670)

PHILLIP CAPITANO)

CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY SYSTEM**SENSITIVE**

FEB 14 PM 1:45

SUBMIT

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are forwarded to the Commission with a recommendation for dismissal.¹ The

Commission has determined that pursuing low-rated matters compared to other higher rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss these cases.

The Office of General Counsel scored MUR 5670 as a low-rated matter. In this case, the allegations concerned the propriety of \$225 payment made by the Mayor of Kenner, Louisiana, for a table at a luncheon held by a local Professional Women's Association where Congressional candidate Bobby Jindal was the featured speaker. The complainant asserted that the luncheon was an in-kind contribution to Congressman Jindal's campaign and the \$225 fee paid by the Mayor of Kenner represented an illegal corporate contribution for the event. The respondents replied that the lecture by then candidate Bobby Jindal concerned healthcare and no contributions or political activity took place at the luncheon.

The allegations concerning the purpose of the luncheon appear to be speculative and have been specifically refuted by the sponsor of the event. Thus, in reviewing the merits of MUR 5670 in furtherance of the Commission's priorities and resources relative to other

matters pending on the Enforcement docket, the Office of General Counsel believes that the Commission should exercise its prosecutorial discretion and dismiss the matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).


RECOMMENDATION

The Office of General Counsel recommends that the Commission dismiss MUR 5670, close the file effective two weeks from the date of the Commission vote, and approve the appropriate letters. Closing the case as of this date will allow CELA and General Law and Advice the necessary time to prepare the closing letters and the case file for the public record.

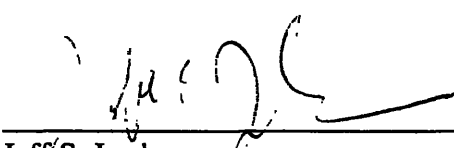
James A. Kahl
Deputy General Counsel

2/14/06
Date

BY:



Gregory R. Baker
Special Counsel
Complaints Examination
& Legal Administration



Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration

Attachment:
Narrative in MUR 5670

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5 **MUR 5670**

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7 **Complainant:** Daniel Zimmerman

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9 **Respondents:** Philip L. Capitano
10 Friends of Bobby Jindal, Inc., and
11 William C. Potter, as treasurer
12 Kenner Professional Women's Association
13

14 **Allegations:** The complainant alleges that Phillip L. Capitano, the Mayor of Kenner,
15 Louisiana and the Kenner Professional Women's Association ("KPWA") made prohibited
16 in-kind contributions to the Friends of Bobby Jindal Campaign Committee. The alleged
17 in-kind contributions took place when the KPWA sponsored a luncheon where then
18 Congressional candidate Bobby Jindal was the featured speaker. Specifically, KPWA in
19 sponsoring the luncheon and the City of Kenner in paying for a table at the luncheon
20 allegedly made illegal in-kind contributions to Congressman Jindal's campaign
21 committee.
22

23 **Responses:** Friends of Bobby Jindal responded by noting that the Congressman's
24 purpose for attending the luncheon was to discuss healthcare. There were no references
25 to the Congressman's candidacy during the luncheon nor were there any efforts to solicit
26 contributions to his committee. Thus, the luncheon did not constitute a fundraiser or
27 political event.
28

29 Mayor Capitano responded by claiming that the \$225 payment for the luncheon
30 could not be considered an expenditure under 2 U.S.C. § 431(9), since it was not used for
31 the purpose of influencing an election for federal office.
32

33 In its response, KPWA cited to its by-laws that specifically prohibit the
34 organization from political activity. Additionally, KPWA noted that the luncheon in
35 question was one in a series of regularly scheduled monthly meeting of the organization.
36 Moreover, the documents referring to Congressman Jindal's participation at the luncheon
37 did not refer to his candidacy for office, but rather the topic of his lecture concerning
38 healthcare in the United States and Louisiana.
39

40 **Date complaint filed:** July 7, 2005
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42 **Response filed:** July 28, 2005; August 1, 2005; and August 8, 2005

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